

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

SHIRLEY RADABAUGH,

Plaintiff,

- against -

MEYBOHM REALTY, INC. and
MOVE, INC.,

Defendants.

CIVIL ACTION NO.: CV122-034

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Shirley Radabaugh (“Plaintiff”), by and through undersigned counsel, as and for her Complaint against Defendants Meybohm Realty, Inc. (“Meybohm”) and Move, Inc. (collectively, “Defendants”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants’ unauthorized reproduction and public display of a copyrighted photograph of a train depot in Aiken, South Carolina, owned and registered by Plaintiff, a United States-based professional photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Meybohm because Meybohm is organized and/or transacts business in Georgia and is registered with the Georgia Secretary of State.

4. This Court has specific jurisdiction over Move, Inc. because the actions took place in the State of Georgia.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

6. Plaintiff is a professional photographer in the business of licensing her work for a fee, having a usual place of business at 465 Good Hope Farms Road, Aiken, South Carolina 29803.

7. Upon information and belief, Meybohm Realty, Inc. is a domestic profit corporation duly organized and existing under the laws of Georgia, with a place of business at 7025 Evans Town Center Blvd., Suite 311, Evans, GA, 30809, USA. It may be served upon its registered agent, Reagan Williams, at 7025 Evans Town Center Blvd., Suite 311, Evans, GA, 30809, USA, or upon an officer, a managing or

general agent, or any other agent authorized by Meybohm, wherever they may be found.

8. Upon information and belief, at all times material hereto, Move, Inc. a foreign profit corporation based out of Santa Clara, California, has owned and operated a website at the URL: <https://realtor.com/> (the “Website”). It has a regular place of business at 3315 Scott Blvd., Suite 250, Santa Clara, California 95054. It may be served upon its registered agent, or upon an officer, a managing or general agent, or any other agent authorized by Move, Inc., wherever they may be found.

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

9. Plaintiff created the photograph of a train depot in Aiken, South Carolina (the “Photograph”). A true and correct copy of the Photograph is attached hereto as **Exhibit A**.

10. Plaintiff is the author of the Photograph and has at all times been the sole owner of all rights, title, and interest in and to the Photograph, including the copyright thereto.

11. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-163-245 with the effective date of July 15, 2019 and titled “8.28.16. The Aiken Train Depot during the blue hour after

sunset,” (the “245 Registration”). A true and correct copy of the 245 Registration certificate is attached hereto as **Exhibit B**.

B. Defendants’ Infringing Activities

12. Meybohm, through Move, Inc. published the Photograph on Move, Inc.’s webpage titled “About Kim Cooper,” published at URL: https://www.realtor.com/realestateagents/kim-cooper_aiken_sc_564649_105994352 (the “Infringing Article”). The article prominently featured the Photograph. A true and correct screenshot from the Infringing Article is attached hereto as **Exhibit C**.

13. Defendants did not license the Photograph from Plaintiff for the Infringing Article, nor did Defendants have Plaintiff’s permission or consent to publish the Photograph on Move, Inc.’s Website. Defendants did not attribute the work to anyone.

CLAIM FOR RELIEF
COPYRIGHT INFRINGEMENT
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in the paragraphs above.

15. Defendants infringed upon Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Defendants are

not, and have never been, licensed or otherwise authorized to reproduce, publicly display, distribute, and/or use the Photograph.

16. The acts of Defendants complained of herein constitute an infringement of Plaintiff's copyright and exclusive rights under copyright law in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Defendant have been willful and/or in reckless disregard of Plaintiff's rights.

18. As a direct and proximate cause of the infringement by Defendants of Plaintiff's copyright and exclusive rights under copyright law, Plaintiff is entitled to damages and Defendants' profits pursuant to 17 U.S.C. § 504(b) for the infringement.

19. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendants' willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

20. Plaintiff is further entitled to her attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendants Meybohm Realty, Inc. and Move, Inc. be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either:
 - a. Plaintiff's actual damages and Defendants' profits, gains, or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or
 - b. Alternatively, statutory damages of up to \$150,000 pursuant to 17 U.S.C. § 504(c);
3. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct so that Plaintiff may be awarded actual damages pursuant to 17 U.S.C. § 504(b);
4. That Plaintiff be awarded her costs, expenses, and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

This the 21st day of March 2022.

Respectfully submitted,

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